

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-736

November 2, 2004

PUBLIC UTILITIES COMMISSION
Delegation of Authority to the Director of
Technical Analysis to Approve Changes in
Construction Standards for Transmission
and Distribution Utilities

ORDER DELEGATING
AUTHORITY TO APPROVE
CHANGES IN CONSTRUCTION
STANDARDS BY T&D UTILITIES

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

By this Order we delegate to the Director of Technical Analysis the authority to approve changes in a transmission and distribution (T&D) utility's line extension "construction standards" for utility lines, including electric line extensions.

Chapter 395, § 3 requires T&D utilities to file, and the Commission to approve, the construction standards for each utility. "Utility line construction standards" are defined in Section 1(U) of the Rule:

"Utility line construction standards" means the requirements, other than those imposed by the National Electric Safety Code (NESC) or the Rural Utilities Service (RUS), of a T&D utility that apply to electric distribution line extensions and that a constructor of a line extension must meet before, during, or after the construction of a line extension prior to the energization of the line. Utility line construction standards may be contained in a utility's Terms and Conditions or in a separate document that is incorporated by reference in its Terms and Conditions. They include but are not limited to construction procedures and specifications for facilities and materials.

Pursuant to Chapter 395, § 3(B)(1), construction standards are part of the utility's Terms and Conditions:

All utility line construction standards shall be part of the utility's Terms and Conditions but may be located in a separate document and referenced in the main volume of the Terms and Conditions.

Because construction standards are part of a T&D utility's Terms and Conditions, 35-A M.R.S.A §§ 307 and 310 govern the procedure for the consideration and approval of changes to construction standards.

Chapter 395, § 3(B) and (C) establish an elaborate process for the approval of the initial full set of construction standards following the adoption of the Rule. Once that initial set is approved, however, we expect, based on experience, that most further changes will be routine in nature and that on many occasions T&D utilities will require approval on short notice. The Rule presently anticipates two circumstances under which quick approval may occur: emergency revisions (Section 3(B)(3)(d)) and changes allowing more flexible standards or allowing alternative materials (Section 3(E)). These two circumstances, however, are not likely to be the only circumstances when a utility needs fast approval and it is not necessary for the full Commission to approve the change.

We therefore delegate to the Director of Technical Analysis the authority to approve all changes in a T&D utility's "utility line construction standards," as defined in Chapter 395, except for "initial" standards filed for approval under Section 3(B)(2) of Chapter 395. The delegation includes the authority to approve changes proposed pursuant to Section 3(D) (Emergency Revisions)¹ and to provisions in their Terms and Conditions that are not themselves "construction standards" but that govern how the standards apply or are administered.

The Director may also exercise the power of the Commission to approve changes on notice of less than the 30 days normally required by 35-A M.R.S.A. § 307 upon a finding of good cause. The Director may not disapprove a proposed change in construction standards, but may decline to approve, thereby leaving the matter for Commission decision. We expect the Director will decline to approve any major change in standards that is, or is likely to become, controversial, but we allow the Director to decide whether the proposed change falls within that category.

Accordingly, pursuant to 35-A M.R.S.A. § 107(4) and Chapter 110, § 1305 of the Commission's Rules, we DELEGATE to the Director of Technical Analysis for the Maine Public Utilities Commission:

1. The authority to approve all changes in a T&D utility's "utility line construction standards," as defined in Chapter 395, except for "initial" standards filed for approval under Chapter 395, § 3(B)(2). The delegation includes the authority to approve changes proposed pursuant to Chapter 395, § 3(D) (Emergency Revisions) and to provisions in a T&D utility's Terms and Conditions that are not themselves "construction standards" but that govern how the standards apply or are administered.

¹ There is no need to delegate authority to approve a "More Flexible Standard" under Section 3(E)(1) or a "Term and Condition Allowing Alternative Materials" under Section 3(E)(2). Under Section 3(E)(2) both of those types of changes become effective upon filing with the Commission.

2. The authority to exercise the power of the Commission to approve changes on notice of less than the 30 days normally required by 35-A M.R.S.A. § 307 upon a finding of good cause.

Dated at Augusta, Maine, this 2nd day of November, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.